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09/761,342	01/16/2001	Farrokh Abrishamkar	990369	5970

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Qualcomm Incorporated
Patents Department
5775 Morehouse Drive
San Diego, CA 92121-1714

EXAMINER

CHANG, RICHARD

ART UNIT	PAPER NUMBER
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2663

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/761,342

Applicant(s)

ABRISHAMKAR, FARROKH

Examiner

Richard Chang

Art Unit

2663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/28/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 2-28 and 30-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-26 is/are allowed.
- 6) ☒ Claim(s) 27-28, 30-31 and 36-38 is/are rejected.
- 7) ☐ Claim(s) 32-35 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Examiner's Statement

1. The indicated allowability of claims 27 and 36-38 are withdrawn in view of the newly discovered references to US patent No. 6,829,485 ("Abrishamkar et al.") and US patent No. 6,771,616 ("Abrishamkar et al."). Rejections are based on the newly cited reference(s) follow.

2. The indicated allowability of claim 28 is withdrawn in view of the previously cited references to US patent No. 6,711,413 ("Heidari"), upon further consideration, a new ground of rejection is made as follow.

Double Patenting

1. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ..., may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

2. Claim 27 is rejected under 35 U.S.C. 101 as claiming the same invention as that of corresponding claim 10 of prior US patent No. 6,771,616 ("Abrishamkar et al."). This is a double patenting rejection.

Claim 36 is rejected under 35 U.S.C. 101 as claiming the same invention as that of the corresponding claim 12 of prior U.S. Patent No. 6,829,485 ("Abrishamkar et al."). This is a double patenting rejection.

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Claim 37 is rejected under 35 U.S.C. 101 as claiming the same invention as that of the corresponding claim 13 of prior U.S. Patent No. 6,829,485 ("Abrishamkar et al."). This is a double patenting rejection.

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claim 38 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 14-16 of U.S. Patent No. 6,829,485 ("Abrishamkar et al."). Although the conflicting claims are not identical in a single claim form, they are not patentably distinct from each other because claim 38 is a precisely combined claim, which combines exactly all the limitations of the claims 14-16 in a single claim tree of the cited reference.

It would have been obvious to one skilled in the art to combine all limitations from a single claim tree of the cited reference into a single claim because that will simplify the new claim tree.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 28 and 30-31 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by US patent No. 6,711,413 ("Heidari").

Regarding claim 28, Heidari teaches a method and system operable generally to paging of a receiving station in a cdma2000 cellular communication system (a system for interpreting a quick paging channel ... system) comprising the determiner 88 of the controller 86 of the mobile station 12 makes a determination of an operating characteristic of the communication system in which the mobile station is operable (first means for calculating ... quick paging channel is propagating), a determination is made based upon the determined operating parameter whether the mobile station should make use of the page indication bits, such as those transmitted on the F-QPCH (second means for calculating ... quick paging channel signal) and a selection is made based upon the operating parameter determined at the block 116(See Fig. 4) and of the previously-obtained quick-paging bit, of what action should be taken by the mobile station (third means for indicating ... on said primary paging channel) (See Fig. 3-4, Col. 9, lines 20 to Col. 10, lines 15).

Regarding claim 30, Heidari further teaches that the combined signals formed by the rake receiver are provided to an energy detector 74 are provided to a soft combiner 76 (first means for analyzing a received signal ... in response thereto) and the mobile station is provided with more control over the decoding of the page indication bits generated on a

quick paging channel F-QPCH (second means for providing ... said one or more symbols) (See Fig. 3, Col. 6, lines 66 to Col. 7, lines 45) where said one or more symbols include a first symbol and a second symbol.

Regarding claim 31, Heidari further teaches that a pilot signal is broadcast during operation of the radio communication system and wherein the indications of the operating parameter to which said determiner is coupled to receive comprises indications of values of E_c/I_o of the pilot signal when received at the radio device (first means includes means for analyzing ... via a pilot signal included in said received signal) (See Col. 11, lines 25-29).

Allowable Subject Matter

9. Claim 2-26 are allowed.

10. Claims 32-35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and if no art rejection can be applied.

Examiner's Statement of Reasons for Allowance

11. The following is an examiner's statement of reasons for allowance:

The prior art along or in combination fails to teach or make obvious the limitations that specifically comprises:

“said first decision parameter is based on a pilot signal and a carrier signal to interference ratio associated with said quick paging channel signal” as recited in the independent claim 2,

or

“first means for extracting pilot signal and a quick paging signal from a received signal, said quick paging signal having a slot with a first quick paging symbol and a second quick paging symbol” and

“second means for estimating pilot signal strengths associated with said first quick paging symbol and said second quick paging symbol” and

“third means for computing page energies and pilot energies associated with said first and second quick paging symbols” and

“fifth means for selectively activating said fourth means, based on said pilot signal strengths, said page energies, said pilot energies, said pilot signal, and said paging signal” as recited in the independent claim 13,

or

“a demodulator and combiner for selectively combining said quick paging channel signal component and said pilot signal to yield a decision metric” and

“a detector for providing an indication of the presence or absence of an immediately forthcoming page on a primary paging channel of said received signal based on said decision metric” as recited in the independent claim 23,

or

“fifth means for selectively combining said quick paging channel signal

component and said pilot signal to yield a decision metric” and

“sixth means providing an indication of the presence or absence of an immediately forthcoming page on a primary paging channel of said radio frequency signal received via said first means” and

“seventh means for selectively employing said first means, said fourth means, and fifth means to process a subsequent page of a primary paging channel in response to said indication and establishing a traffic channel in response to the processing of said subsequent page” as recited in the independent claim 26,

or

“third means for indicating that said first symbol and said second symbol are unreliable based on said parameter and selectively disabling said second means in response thereto” as recited in the dependent claim 32.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Chang whose telephone number is (571) 272-3129. The examiner can normally be reached on Monday - Friday from 8 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on (571) 272-3139. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Richard Chang
Patent Examiner
Art Unit 2663


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PRIMARY EXAMINER